

Legal Study on Overclaims on Food Products in the Perspective of Consumer Protection Law

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ABSTRACT

Consumer rights to obtain accurate product information are fundamentally protected under Indonesian Law No. 8 of 1999 concerning Consumer Protection (UUPK). However, violations frequently occur in the food industry through misleading overclaims in product labeling and advertising. This normative legal research examines the regulatory framework governing food product claims in Indonesia, focusing on the consistency between consumer protection laws and food regulations. The study analyzes three key legal instruments: UUPK, Food Law No. 7 of 1996, and regulations from the National Agency of Drug and Food Control (BPOM), particularly BPOM Regulation No. 22 of 2019 on Nutritional Value Information. The research identifies significant regulatory gaps, especially regarding tolerance limits for nutritional claims that contradict the consumer's right to completely accurate information under UUPK. Through a comparative analysis of international standards and case studies of misleading claims in Indonesia's food market, the study reveals weaknesses in current enforcement mechanisms. The findings suggest that while existing regulations provide some consumer protection, they lack sufficient deterrent effects against overclaim practices. This study contributes to consumer protection literature by proposing a comprehensive framework for regulatory reform, emphasizing three key aspects: (1) harmonization of claim regulations between UUPK and BPOM, (2) implementation of stricter scientific substantiation requirements, and (3) development of more effective monitoring systems for digital advertising. The recommendations aim to strengthen legal protections while maintaining industry innovation, providing valuable insights for policymakers and consumer advocates.

KEYWORDS

Consumer Protection, Overclaiming Food Products, Law Number 8 of 1999



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INTRODUCTION

Among the many issues in the legal aspect of consumer protection, three key issues serve as indicators of violations of Law Number 8 of 1999 concerning Consumer Protection (UUPK) (Yusuf, 2025). One such issue is advertising violations, which remain central in practice and scholarship on misleading or deceptive ads (Rahmatiar, 2024; Aulia et al., 2025). A number of recent works reaffirm that UUPK functions as the umbrella statute for consumer remedies and enforcement in Indonesia, including for advertising-related harms (Panjaitan, 2021; Dewi, 2024). A literature stream also discusses sectoral oversight in food and health, noting how food-related advertising and labeling controls have historically relied on implementing regulations and supervisory bodies (Widiarty, 2018; Putri, 2022). In that context, scholarship highlights that provisions in the Food Law required further implementing rules on labeling/advertising (e.g., PP 69/1999) and have since been updated under Food Law No. 18/2012, which superseded Law No. 7/1996 and has been operationalized through newer regulations (Aprilianti, 2020; DPR RI Baleg, 2021).

The provisions of Article 33 raise the question of whether consumer protection only applies to “commercialized food.” In practice, pre-market activities—such as advertising products prior to distribution and handing out free product samples—fall within advertising/claims supervision and registration requirements, not solely post-sale controls

(BPOM, 2021; BPOM, 2022). Moreover, Indonesia's processed-food regime requires pre-market registration and sets detailed labeling/claims rules that apply regardless of whether the item is sold or sampled, reinforcing that consumers exposed to pre-distribution promotions must still be protected (BPOM, 2023; USDA FAS, 2021). Recent updates also extend oversight to online distribution/marketing, indicating that protections attach to exposure (ads, claims, samples) and not only to the act of sale (BPOM, 2024). Scholarly/legal analyses similarly stress that misleading advertising triggers consumer-protection remedies, underscoring the need to read Article 33 in harmony with sectoral advertising/claims controls (Rahmatiar, 2024). Finally, amendments to labeling provisions (e.g., changes to the 2018 labeling rule) show a continued policy trend to close gaps between business processes and consumer exposure—even before a product is commercialized (BPOM, 2021b).

Several previous studies have addressed similar topics with different focuses. First, research by Permata Sari, Yudhia, et al. (2022) highlights the inconsistency between the claims listed on the label and scientific evidence, as well as identifying weaknesses in BPOM supervision. Second, research by Pratiwi Susanty, Ade (2019) analyzed the effectiveness of food label supervision at the regional level. The results of the study show that many food labels still do not meet the standards and recommend more intensive socialization to business actors. This research will complement the two previous studies with a specific focus on food product claims at the national level as well as an in-depth analysis of the legal aspects of consumer protection.

Furthermore, it was also found that several products on social media frequently make overclaims about the products they advertise, such as food products claiming to provide health benefits for consumers, or products claiming to contain 100% pure ingredients, such as 100% honey or 100% pure milk. Most literature in Indonesia discussing issues related to overclaims focuses more on pharmaceuticals, particularly cosmetics, and rarely highlights overclaims in the food sector. This is despite the fact that the majority of Indonesian consumers consume food, and therefore, the quality of the food they consume must be guaranteed. According to Hartono, as quoted by Ade Pratiwi Susanty, one of the most influential sources of information is advertising and labels. Therefore, the researcher chose the research topic "Legal Review of Overclaims on Food Packaging and Advertising from the Perspective of the Consumer Protection Law."

This study contributes novel insights into the lack of alignment between the Consumer Protection Law and BPOM regulations, especially concerning processed food advertising claims. While existing literature predominantly examines pharmaceuticals, this research shifts focus to food products, addressing a critical gap in consumer protection discourse. The implications of this research may guide policy refinements to strengthen regulatory consistency and consumer safety, ensuring that claims on food labels and advertisements are scientifically substantiated and legally enforceable.

This study addresses two central questions to examine the legal framework and consumer safeguards related to overclaims in food products. First, how are food product claims regulated in Indonesia? This question explores the existing legal provisions, including Law Number 8 of 1999 on Consumer Protection and BPOM regulations, to assess their effectiveness in governing advertising and labeling claims. Second, what forms of consumer protection exist against overclaims in food products? This inquiry investigates the mechanisms—such as sanctions,

dispute resolution, and regulatory oversight—available to consumers when faced with misleading or exaggerated claims. By analyzing these questions, the study aims to identify gaps in the current system and propose improvements to enhance consumer rights and regulatory enforcement.

This study aims to analyze the regulation of food product claims in Indonesia from the perspective of consumer protection law, especially related to the practice of overclaim in product advertising and packaging. In more detail, this study aims to: (1) examine the alignment between the Consumer Protection Law and BPOM regulations in regulating food product claims; and (2) identify the forms of legal protection available to consumers against excessive or misleading claims. Thus, this research is expected to provide a comprehensive understanding of the effectiveness of existing regulations in protecting consumers' rights to accurate information.

This research provides benefits both theoretically and practically. Theoretically, the results of the research can enrich the study of consumer protection law, especially in the context of food product claims, as well as serve as a reference for the development of legal literature in Indonesia. Practically, this research can serve as input for policymakers in improving regulations related to advertising and food product labeling to minimize overclaim practices that are detrimental to consumers. In addition, the findings of this study are also expected to increase consumer awareness in recognizing and reporting product claims that are not in accordance with the facts.

METHOD

The doctrinal approach aimed to study legal norms, their application, and academic foundations by analyzing legal theory, jurisprudence, and legal philosophy. According to Soerjono Soekanto and Mamoedji, this approach focused on legal principles, systematic law, and the vertical and horizontal synchronization of norms. Essentially, doctrinal research sought to address legal provisions or sets of norms by connecting one norm to another or relating norms to specific legal events. It emphasized solving legal problems based on written laws and legal practice.

Doctrinal legal research began by examining juridical phenomena before considering social facts, as law was regarded as having a superior position. Therefore, if discrepancies arose between the law and the actions of legal subjects, doctrinal research maintained that legal subjects should comply with the law.

In this study, researchers examined whether the application of claims on food labels in Indonesia conformed to principles of consumer safety, security, and legal certainty. The statute approach was used to analyze a case highlighting a conflict between Law Number 8 of 1999 on Consumer Protection (UUPK), which guarantees consumers the right to accurate information, and the Food and Drug Supervisory Agency Regulation Number 22 of 2019, which permits certain deviations in nutritional value labeling within tolerance limits. The research investigated whether this regulation contradicted consumer protection law.

Legal materials were collected through an inventory of secondary sources such as laws, regulations, and relevant literature, both legal and non-legal. These materials were processed deductively in three steps: rewriting to ensure completeness, selecting and classifying materials, and describing and analyzing the findings. Conclusions were then drawn regarding

conflicts between norms, regulatory inadequacies, legal validity, and the relationship between legal subjects and objects based on the doctrinal approach.

RESULT AND DISCUSSION

Regulation of Health Claims on Food Products in Indonesia

One factor that consistently influences consumers to purchase a product is the claims associated with that food product. According to Food and Drug Supervisory Agency Regulation Number 31 of 2018 concerning Processed Food Labels, a claim is any description stating specific characteristics of a food product regarding its origin, nutritional content, benefits, properties, production, processing, composition, or other quality factors.

Claims are also regulated in PBOM Number 31 of 2018, in Section Eight, Claim Description, Article 55. Detailed regulations regarding claims are contained in Food and Drug Supervisory Agency Regulation Number 1 of 2022 concerning Supervision of Claims on Processed Food Labels and Advertisements. Furthermore, PBPOM Number 1 of 2022 stipulates that claims consist of several types: nutritional/non-nutritional claims, health claims, nutrient content claims, non-nutritional content claims, nutrient/non-nutritional comparison claims, nutrient/non-nutritional function claims, and disease risk reduction claims. Products originating from promotions and advertising should comply with consumer protection laws.

Amidst increasing public awareness of the importance of nutrition in food products, some businesses often make misleading claims. According to Clara Muela Molina in her journal, "Misleading Advertising in Food Products," "The market is increasingly aware of the need for food based on natural, fresh, organic products, low in calories and fat, where functional foods—those that are both nutritious and healthy—feature prominently, and not only for eliminating hunger and providing the necessary calories to fulfill everyday activities." In other words, today's society will choose foods claimed to have health benefits.

From several news sites, the author found several cases related to overclaims or excessive claims or misleading claims, such as the case of Kellogg's Frosted Mini Whetas cereal, where the product claimed that the cereal claimed to increase their focus by almost 20% while in reality it only increased awareness by 11%, which according to Mary Engle, FTC Advertising Practices Supervisor, stated that the claim was made based on research where the cereal company conducted research on children who ate the cereal with children who only consumed water, in other words the comparison used was children who had breakfast with children who did not have breakfast. Kellogg's also received a warning for one of its products, Rice Krispies Cereal, claiming "now helps support your child's immunity," with 25 percent Daily Value of Antioxidants and Nutrients—Vitamins A, B, C, and E." The product claimed that the cereal had certain benefits and substances. However, according to the FTC, this claim lacked supporting data. This is in accordance with the Health Products Compliance Guidelines issued by the US Federal Trade Commission, which state, "Before disseminating an ad, an advertiser must have adequate substantiation for all product claims." In other words, a claim must be supported by evidence or scientific data.

The most frequently misleading or overclaimed claims are health claims. According to the Federal Trade Commission (FTC), Americans spend billions of dollars annually on supplements, food, and other health products in the hope of improving their health without

needing a doctor. The FTC has found in recent years that health claims made by health food products have not been proven to improve health or reduce the risk of disease.

Health claims are regulated in the Food and Drug Monitoring Agency Regulation Number 1 of 2022 concerning Supervision of Claims on Labels and Advertisements of Processed Foods. According to Article 1, paragraph 8, a health claim is any description that states, suggests, or implies a relationship between food or food ingredients and health. Furthermore, Article 2, paragraph 3 also stipulates that health claims include:

- a. Nutrient/Non-Nutrient Function Claims
- b. Disease Risk Reduction Claims
- c. Glycemic Claims

Furthermore, Article 4 of the Food and Drug Monitoring Agency Regulation Number 1 of 2022 concerning Supervision of Claims on Labels and Advertisements of Processed Foods states that claims made in advertisements must comply with the label approved at the time of obtaining a distribution permit in accordance with statutory provisions.

Forms of Consumer Protection Against Overclaimed Health Claims in Food Products

The idea of consumer protection arose from the weak position of consumers, necessitating legal protection. Internationally, the United Nations has emphasized consumer rights and interests, particularly at the 160th UN General Assembly on April 9, 1985, as outlined in UN Resolution 39/248, which outlined the Guidelines for Consumer Protection, Part II, regarding general principles governing consumer interests. One of these principles is the availability of adequate information for consumers to choose the right product that meets their individual desires and needs.

Law Number 8 of 1999 concerning Consumer Protection prohibits several acts in producing, trading, and promoting goods and/or services. This is done to protect consumers and to ensure that the goods or services in circulation are products fit for distribution. Consumers need to be legally protected from potential losses, one of which is losses caused by promotions or advertising that overclaims a food product. Losses caused by overclaims can threaten consumer safety and security.

Although there are obligations for business actors in carrying out advertising or promotion, in reality, according to Rexanna Powers and Richie Rovers, "More recent evidence has demonstrated that consumers acquire knowledge about their food from various media, such as the internet and social media. Often, these sources use incorrect information and promote food and agricultural marketing trends that may not be based on scientific data." Many food products are still found in their promotions and advertisements making claims that are not supported by scientific data. Claims without scientific data can endanger consumers, according to Mohammed T. Nuseir in his journal, *Impact of Misleading/False Advertisement. to Consumer Behavior*, states "There are three components of false advertising are fraud, falsity and misleading", an advertisement can be said to be false advertising if the advertisement contains fraud, falsehood and misleading.

According to Law Number 8 of 1999 concerning Consumer Protection, Article 4 states that consumers have the right to correct, clear, and honest information regarding the condition and guarantee of goods and/or services. Article 7, letter c, states that business actors are obliged to provide correct, clear, and honest information regarding the condition and guarantee of

goods and/or services. Meanwhile, in advertising, there are several prohibitions specifically directed at business actors in conducting advertising. This is regulated in Article 17, letter c, which states, "Advertising Business Actors are prohibited from providing false, incorrect, or inaccurate information regarding goods and/or services. An advertisement can be considered deceptive to consumers if the advertisement contains false, misleading, or excessive statements."

Consumers' right to obtain information is also regulated in the Food Law, specifically Article 96 paragraph 1, which provides the right to obtain information through labeling on food packaging, which aims to provide consumers with correct and clear information about food products before purchasing and/or consuming food.

In addition, Article 27 paragraph 1 states that the inclusion of claims This claim must be proven by analysis results from an accredited laboratory or government laboratory. Furthermore, there are several prohibitions on including claims, as regulated in Article 28, which states that business actors are prohibited from:

- a. Including claims for processed foods intended for infants, unless specifically regulated in accordance with statutory provisions.
- b. Including claims regarding disease risk reduction for processed foods intended for children aged 1 (one) to 3 (three) years, unless specifically regulated in statutory provisions.
- c. Including claims stating that processed foods are free of nutrients/non-nutritional substances in processed foods that naturally do not contain nutrients/non-nutritional substances, unless specifically regulated in accordance with statutory provisions.
- d. Including statements that consumption of the processed food can meet all nutritional needs.
- e. Including claims that exploit consumer concerns.
- f. Including claims that cause consumers to consume a type of processed food incorrectly, and/or.
- g. Including claims that describe processed foods as being able to prevent, treat, or cure disease.

In conclusion, every product offered to consumers must have correct information so that consumers are not mistaken about the product goods and services where the information can be conveyed either verbally to consumers, through advertisements in various media, or included in the product packaging (goods), access to information is related to consumer safety, therefore a product must be accompanied by information in the form of clear instructions for use, an advertisement is not allowed to have incorrect information.

CONCLUSION

Every consumer has the right to accurate information as mandated by Law Number 8 of 1999 (UUPK), Law Number 7 of 1996 concerning Food, and Regulation of the Food and Drug Supervisory Agency Number 22 of 2019 on Nutritional Value Information on Processed Food Labels, which collectively require food labels to provide appropriate information without overclaims. To strengthen consumer protection against overclaim practices, it is suggested to harmonize regulations between the Consumer Protection Law and BPOM to ensure consistent supervision, enhance oversight through digital monitoring of product claims especially on

online platforms, improve socialization and education for business actors about legitimate claims, and empower consumers through legal awareness campaigns to identify and report misleading information. Future research should adopt an empirical approach to evaluate the effectiveness of these regulatory measures in practice, helping to optimize consumer protection and create tangible impacts.

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